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Invested in America

July 9, 2020

Vanessa Countryman
Secretary
Securities and Exchange Commission
100 F Street NE., Washington, DC 20549

Re: ***SIFMA Comment Letter on Proposed Rule Change to Amend Its Automated Price Improvement Auction Rules in Connection with Agency Order Size Requirements: File No. SR-Cboe-2020-051; Notice of Filing of a Proposed Rule Change to Amend Rules 5.37 and 5.73: SR-Cboe-2020-050; Notice of Filing of a Proposed Rule Change Relating to Amend Rules 5.37, 5.38 and Rule 5.73 SR-Cboe-2020-052***

Dear Ms. Countryman:

The Securities Industry and Financial Markets Association ("SIFMA")[1] submits this letter to the U.S. Securities and Exchange Commission ("Commission") to comment on the Cboe ("Cboe" or "Exchange") rule proposal to determine a maximum size requirement for agency orders in SPX options submitted through Cboe's automated auction mechanisms, as well as the related rule proposals to allow any market maker other than the initiating Trading Permit Holder ("TPH") to respond to an auction in all classes and to amend the minimum price increments for SPX Combo and Flex.[2] As discussed below, SIFMA supports and recommends that the Commission approve each of these Cboe proposals.

Cboe's Automated Price Improvement Mechanism ("AIM or "AIM Auction") and the Complex Automated Price Improvement Mechanism ("C-AIM or C-AIM Auction") have not historically been activated for trading in SPX options when the floor is open for trading. In addition, these mechanisms do not have a minimum or maximum limitations on the size of orders in any options class that can be submitted to them, and they limit the ability of Market-Makers in an appointed options class to participate in auctions related to that class. Due to the closing of the Cboe floor in response to the recent COVID-19 crisis, Cboe activated the AIM

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1 SIFMA is the leading trade association for broker-dealers, investment banks and asset managers operating in the U.S. and global capital markets. On behalf of our industry's nearly 1 million employees, we advocate for legislation, regulation and business policy, affecting retail and institutional investors, equity and fixed income markets and related products and services. We serve as an industry coordinating body to promote fair and orderly markets, informed regulatory compliance, and efficient market operations and resiliency. We also provide a forum for industry policy and professional development. SIFMA, with offices in New York and Washington, D.C., is the U.S. regional member of the Global Financial Markets Association (GFMA). For more information, visit http://www.sifma.org.

2 *See* Securities Exchange Act Release No. 89058 (June 12, 2020), 85 FR 36918 (June 18, 2020); Securities Exchange Act Release No. 89062 (June 12, 2020), 85 FR 36907 (June 18, 2020); Securities Exchange Act Release No. 89063 (June 12, 2020), 85 FR 36923 (June 18, 2020).

Auction and C-AIM Auctions for trading in SPX options during the hours the floor is normally open, as well as removed the limitations on Market-Makers' ability to participate in these auction mechanisms for any class eligible for these auction mechanisms. Based on its experience with these changes, Cboe is proposing certain changes related to these auction mechanisms with the goal of fostering greater retail investor participation in them.

In the first proposal, SR-CBOE-2020-051, the Exchange proposes to amend Rule 5.37(a)(3) and Rule 5.38(a)(8) to allow the Exchange to determine maximum size requirements for Agency Orders in SPX options submitted through the Automated Price Improvement Mechanism ("AIM or "AIM Auction") and the Complex Automated Price Improvement Mechanism ("C-AIM or C-AIM Auction").[3] SIFMA notes that Cboe is proposing this change to encourage greater retail investor participation in the use of SPX options. Since SPX has a significantly higher notional value than SPY (SPX is ten times the notional size of SPY) and tends to trade in larger sizes with complex strategies, Cboe notes that these factors may have limited retail customer participation to simpler, smaller sized orders in SPX options. Cboe further notes that these factors also have contributed to the Exchange's historical determination to not activate AIM in SPX when the floor is open so to encourage liquidity on the trading floor to accommodate these large and complex trades.

Cboe asserts that the introduction of an Agency Order size ceiling in connection with its auction mechanisms for SPX options should provide more price improvement opportunities for retail investors. Based on feedback from membership, SIFMA agrees that this should incentivize increased retail customer auction participation in SPX options and provide retail customers with execution and price improvement opportunities in SPX options. In its filing, Cboe also notes that it has observed that increased smaller size order flow tends to attract Market-Maker responses, as such orders are generally easier to hedge than larger orders, which may encourage Market-Makers to compete to provide price improvement in an electronic competitive auction process. This, in turn, may contribute to a deeper, more liquid auction process with additional price improvement opportunities for market participants, and particularly retail customers. In apparent support of its proposed maximum size of order for 100 contracts (with the flexibility for the Exchange to designate a smaller amount under the rules), Cboe provides data gathered during the recent trading floor closure to illustrate that price improvement received on smaller SPX orders is greater than price improvement received on larger SPX orders. SIFMA agrees that permitting the Exchange to determine a maximum size for SPX orders submitted to AIM and C-AIM in SPX should enhance execution quality for smaller orders and maintain liquidity on the trading floor for larger complex orders, thus creating a liquid hybrid environment for orders in this class.

In a related filing, SR-CBOE-2020-050, the exchange proposes to amend Rules 5.37 and 5.73 to permit orders for the accounts of Market-Makers with an appointment in the applicable class to be solicited for the Initiating Order submitted for execution against an Agency Order in

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[3] *See* Securities Exchange Act Release No. 89058.

classes eligible for simple AIM and FLEX AIM Auctions.[4] SIFMA agrees that providing appointed Market-Makers with an additional way to participate in electronic auctions will expand available liquidity for these auctions, which may increase execution and price improvement opportunities for customers' orders. Cboe notes that no similar restriction applies to crossing transactions in open outcry trading and the proposed rule change would further align open outcry and electronic crossing auctions and the execution and price improvement opportunities in both auctions by permitting the same participants to be solicited as contras in both types of auctions across all classes at all times. SIFMA agrees that there is no reason to restrict Market-Makers ability to provide liquidity into electronic auctions when they are able to similarly provide that liquidity in open outcry trading. Further, as Cboe notes in its filing, NYSE Arca under NYSE Arca Rule 9.71 currently permits orders for the accounts of appointed market-makers to be solicited as contra orders for electronic price improvement auctions.

Finally, Cboe in SR-CBOE-2020-52 is proposing certain pricing increment changes related to SPX orders to Rules 5.37, 5.38 and Rule 5.73 since a significant amount of complex strategies submitted for execution in SPX options are "delta neutral," often hedged with a "combo" of other SPX options, as is the case when a complex order is crossed on the trading floor.[5] Most significantly, to better align the AIM and C-AIM pricing processes for responses with the open outcry process, the proposal also would amend Rules 5.37(c)(2) and 5.38(c)(2) and the FLEX AIM Auction provisions to provide that the Exchange may also determine to include the stop price in AIM and C-AIM Auction notification messages, respectively, in SPX.

In summary, SIFMA recommends that the Commission approve the Cboe rule proposal to establish a maximum size requirement for agency orders in SPX. This proposal and the related Cboe filings should provide investors in SPX with enhanced execution and price improvements opportunities for those orders submitted into the AIM auction.

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SIFMA greatly appreciates the Commission's consideration of the issues raised above and would be pleased to discuss these comments in greater detail. If you have any questions or need any additional information, please contact me (at [redacted].

Sincerely,

Ellen Greene

Ellen Greene
Managing Director
Equities & Options Market Structure

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4 *See* Securities Exchange Act Release No. 89062.

5 *See* Securities Exchange Act Release No. 89063.

cc: The Honorable Jay Clayton, Chairman
The Honorable Hester M. Peirce, Commissioner
The Honorable Elad L. Roisman, Commissioner
The Honorable Allison Herren Lee, Commissioner

Brett Redfearn, Director, Division of Trading and Markets